

10 JUNE 1947

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10 JUNE 1947

I N D E X

01

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1 Tuesday, 10 June 1947

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3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as before.

15 For the Defense Section, same as before.

16 - - -

17 (English to Japanese and Japanese
18 to English interpretation was made by the
19 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except SHIRATORI whom the prison surgeon of Sugamo
5 certifies to be too ill to attend the trial today.
6 He is represented by his counsel.

7 The accused, TOGO, with the Tribunal's per-
8 mission, is conferring with his counsel outside of the
9 court and will do so until 11 o'clock this morning.

10 Mr. Levin.

11 MR. LEVIN: Mr. President, on Friday, June 6th,
12 the accused, KAYA, was conferring with his counsel from
13 11 to 12. The record, I don't believe, indicates that
14 and I would like to make that statement for that
15 purpose.

16 THE PRESIDENT: He too had the Tribunal's
17 permission.

18 Major Moore.

19 LANGUAGE ARBITER (MAJOR MOORE): Mr. President,
20 if the Tribunal please, the correction presented
21 yesterday, namely, "proceeds along the Khalkhin-Gol"
22 refers to record page 23,831, lines 8, 12 and 13.

23 THE PRESIDENT: Mr. Logan.

24 MR. LOGAN: If the Tribunal please, at this
25 time we desire to request a six weeks' recess commencing

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21 yesterday, namely, "proceeds along the Khalkhin-Gol"
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23 THE PRESIDENT: Mr. Logan.

24 MR. LOGAN: If the Tribunal please, at this
25 time we desire to request a six weeks' recess commencing

23 June. The presentation of the last general division
1 of the defense will start shortly. The preparation of
2 this evidence has been retarded, somewhat, by the engage-
3 ments of the attorneys who have been preparing and of
4 those who have been presenting evidence in the preceding
5 divisions. In addition, a more careful search for doc-
6 uments and revision of affidavits to make them acceptable
7 to the Tribunal has been undertaken, and we should
8 like to be able to carry this out fully.

9 It is imperative that a recess be granted upon
10 completion of the next stage of evidence, relating to
11 the Tri-Partite Pact, which will be about 23 June.
12 Time is urgently needed for the preparation of the
13 remainder of the defendants' case. This recess if
14 granted will, we believe, ultimately result in shorten-
15 ing the trial, in that it will permit the defense to
16 prepare not only the Pacific division but also the
17 individual cases in a concise, logical, orderly and
18 lawyer-like manner. Furthermore, it will enable the
19 American attorneys to confer with the Japanese attorneys
20 and accused, so that an adequate study can be made of
21 the evidence to be presented. The language difficulties
22 in such conferences, it is needless to say, entail a
23 great deal of time.
24

25 It seems unnecessary to point out that this

1 trial has been in progress for about fourteen months,
2 with only three short continuances: in June 1946, one
3 in January this year when the prosecution rested, and
4 one during the presentation of the Manchurian division.
5 There has been a continuous strain, owing to the pre-
6 sentation of evidence in court simultaneously with the
7 preparation of evidence to be presented. If a recess
8 is granted the stress of courtroom appearances will be
9 eliminated during that period of time and the defense
10 attorneys will thus be afforded some measure of relief.
11 We are not asking for a vacation, as we plan to devote
12 the time, if granted, to the preparation of evidence
13 which is of vital importance to all the accused. I am
14 sure the Tribunal has recognized that time is saved
15 where careful preparation has been made. We, of course,
16 regret as much as the Tribunal that at times, by reason
17 of inadequate opportunity for preparation, we have been
18 compelled to present evidence in what can only be
19 acknowledged to have been a slipshod fashion.

20 We recognize that naturally there can be no
21 question of vacations while this trial is yet in
22 progress. Nevertheless, it is universally recognized
23 that considerations of health demand -- and the term
24 of employment of the United States government provide
25 for -- a vacation of one month in the year. The

1 translators, interpreters, court stenographers,
2 employees of the secretariat and the clerk's office
3 and of prosecution and defense have been under tre-
4 mendous pressure during the past fourteen months.
5 Perhaps arrangements can be made so that they can
6 avail themselves of some of this recess to recuperate
7 during the extremely sultry Tokyo weather which will
8 be here in about two weeks.

9 We feel confident that no further recess will
10 be needed or requested during the balance of the
11 defendants' case.

12 THE PRESIDENT: I can assure you that a
13 majority of this Tribunal are bitterly opposed to any-
14 thing in the nature of a recess and will grant one
15 only if it is absolutely necessary to do so. We would
16 like to hear what you have to say, Mr. Tavenner.

17 MR. TAVENNER: If the Tribunal please, it was
18 indicated some days ago that the question of a recess
19 would be shortly raised, so the prosecution has given
20 serious consideration to the position it should take
21 in regard to it.

22
23 If a recess of a day or even two days appears
24 necessary to catch up with the presentation of evidence
25 in the general phases, no objection will be interposed
by the prosecution. If a recess of a longer period of

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20 serious consideration to the position it should take
21 in regard to it.

22 If a recess of a day or even two days appears
23 necessary to catch up with the presentation of evidence
24 in the general phases, no objection will be interposed
25 by the prosecution. If a recess of a longer period of

1 time is required, the prosecution strenuously objects,
2 except under one set of circumstances presently to be
3 mentioned.

4 We respectfully submit that the experience
5 of the past three months has demonstrated that the
6 progress of the case has been unnecessarily impeded
7 by the presentation of the defense case by general
8 phases without counter-balancing advantages. There
9 was a breakdown in the Manchurian phase which required
10 a recess of one week. There was a breakdown in the
11 China phase. This is an indication of a third break-
12 down. In all probability there will be others if the
13 defense adheres to its plan of presenting general phases.

14 In nearly every instance the Tribunal has been
15 notified that the witness who has testified is expected
16 to testify again during the individual phase. It has
17 been demonstrated that there will be considerable over-
18 lapping of evidence in the individual phase and the
19 general phases, with resulting confusion and great
20 loss of time. We also submit that little evidence in
21 the general phases has been directed to the issues in
22 the case. It is our considered opinion that we should
23 object to further recesses of the Tribunal which would
24 serve no purpose other than to aggravate this situation.
25 For this reason we strenuously object to the granting of

1 a recess for the purpose of preparation for presentation
2 of general phases.

3 Should the defense see fit to abandon the
4 general phase plan of presentation and proceed to the
5 presentation of the individual phase, we will interpose
6 no objection to a recess for such a period of time as
7 may be considered reasonably necessary to enable the
8 defense to change their plans and reorganize their work
9 accordingly.

10 The accused, we submit, deserve no sympathy
11 in this matter. The Indictment, setting forth in
12 unprecedented particularity the nature of the charges,
13 was lodged with the Tribunal on the 29th day of April
14 1946, more than one year ago. The prosecution's
15 evidence was completed in the Manchurian phase on the
16 27th day of August; in the China phase on the 5th day
17 of September; in the Soviet phase on the 21st day of
18 October; and in the Pacific phase on the 27th day of
19 November. The accused, who know more about their par-
20 ticipation, or lack of it, than any other persons,
21 have had the assistance of approximately 120 lawyers
22 during this entire period. There can be no valid
23 excuse, we submit, for the granting of additional time
24 for preparation, except under the contingency mentioned.
25

Finally, the attention of the Tribunal is

1 respectfully called to those provisions of Article 12
2 of the Charter, which require that the trial be con-
3 fined strictly to an expeditious hearing of the issues
4 raised by the charges and that strict measures be
5 taken to prevent any action which would cause any
6 unreasonable delay.

7 MR. LOGAN: With respect to any change of the
8 plans of the defense, that is entirely impossible. I
9 might point out that there is only one general phase
10 left, that is the Pacific phase, perhaps one of the
11 most important divisions of the entire defense case.
12 We expect that division will take about six weeks in
13 the presentation. The line of procedure in this entire
14 case was layed down by the prosecution, not by the
15 defense, they are the ones that presented their case
16 in phases, and we had to meet it.

17 THE PRESIDENT: They made no protest but
18 appeared to concur as far as my recollection serves me.

19 MR. LOGAN: That is right, your Honor.
20 Furthermore, that argument is specious because all this
21 evidence must go in and it doesn't make any difference
22 whether it is done through individuals or in general
23 phases, or both.

24 I might also state that this recess, which
25 we are asking, is definitely for the purpose of enabling

1 us to put on the balance of the defense in an orderly
2 way and we cannot do it without the recess. We are
3 confronted with a situation which was not faced by the
4 prosecution and that is endeavoring to obtain the facts
5 from the accused through interpreters and discussing
6 it with our co-counsel and arriving at some sort of a
7 decision between them and the other attorneys as to
8 what is the best method of procedure. At best, transla-
9 tions from Japanese into English and vice versa are
10 only a paraphrasing and sometimes it takes an hour or
11 two, sitting down, to get one direct answer to a question.
12 The prosecution never had that difficulty.

13 I might also mention that we have been working
14 at top speed trying to keep up with our documents, up
15 to the present time, because many of them have been
16 rejected and the time we could have used in reading
17 those documents had to be used in preparing more docu-
18 ments so we would be able to continue and keep the trial
19 going. The prosecution didn't have that difficulty.

20 THE PRESIDENT: The defense phases were
21 intended to save time. That was the reason given.
22 The reason was, that without that, you would have
23 individual accused covering the same ground as other
24 individual accused. We have yet to see whether that
25 will be so.

1 MR. LOGAN: Frankly, that situation might
2 prevail in a case of this magnitude irrespective of
3 whether we put our case on in phases, or individually,
4 or both.

5 THE PRESIDENT: I do not think the Court
6 needs this vacation, actually. We have air conditioning
7 now and while we can get a quorum of six, and I do not
8 anticipate any difficulty about that, we can carry on.
9 It may be absolutely essential for some members to take
10 a rest, probably would be, but it might be taken in
11 turns. However, I speak for myself only; I am expressing
12 my own views now.

13 MR. LOGAN: As far as air conditioning is
14 concerned of course, we, in the defense, haven't air
15 conditioning. All last summer the defense attorneys
16 worked day and night during the heat and we suffered
17 from the cold during the winter -- we had very little
18 heat on in our quarters or in our offices -- and I
19 must say that the health consideration is also very
20 important here. Frankly, I am tired and I know a number
21 of my other colleagues are tired, and the strain of
22 trying to present evidence in court, and preparing at
23 the same time, is just a little too much.

24 THE PRESIDENT: I speak of the Judges only.
25 We work in an air conditioned building, we live in a

1 hotel which has air conditioning of sorts. I say
2 nothing about the attorneys. I know their conditions
3 are not as favorable, nor are the conditions of most
4 others associated with the Tribunal.

5 MR. LOGAN: I just want to stress again, if
6 the Tribunal please, we are not asking for a vacation,
7 we are asking for a recess for the purpose of reliev-
8 ing that constant strain, that has been ours for the
9 past fourteen months, so we can work in our offices
10 without the thought of having to get material ready
11 for the next day -- for presentation in court the next
12 day -- and that we intend to use that time for the
13 preparation of the balance of the case.

14 THE PRESIDENT: I suppose you both said all
15 you can usefully say -- we will consider the matter.

16 MR. LOGAN: Thank you.
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1 K A Z U S H I G E U G A K I, called as a witness
2 on behalf of the defense, resumed the stand
3 and testified through Japanese interpreters
4 as follows:

5 MR. FURNESS: If the Court please, the direct
6 examination of the witness is completed, and he is
7 open for cross-examination.

8 THE PRESIDENT: Mr. Comyns Carr.

9 CROSS-EXAMINATION

10 BY MR. COMYNS CARR:

11 Q General UGAKI, the matters of which you speak
12 in your affidavit occurred nearly nine years ago, did
13 they not?

14 A Yes.

15 Q And it is rather difficult to remember all
16 the details, isn't it?

17 A Yes.

18 Q At this time, in July 1938, was KONOYE the
19 Prime Minister?

20 A Yes.

21 Q And were you the Foreign Minister?

22 A Yes.

23 Q And was ITAGAKI the War Minister?

24 A Yes.

25 Q And was Admiral YONAI the Navy Minister?

UGAKI

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A Yes.

Q And in the Army General Staff was Prince KANIN nominally the Chief of Staff?

A He was the actual Chief of Staff.

Q Yes, but do you agree with other witnesses that the work was done mostly by the vice-chief?

A I do agree.

Q And was that at that time General TADA?

A I do not remember that point.

Q Well, now, do you remember that the Changkufeng Incident was first reported on the 17th of July, 1938?

A I do not remember the date. I believe it was in the middle of July, anyway.

Q And very soon after you first heard of it, did you have a meeting with ITAGAKI and YONAI to discuss it?

A I have no recollection of any such action -- any such meeting.

Q Did ITAGAKI tell you that he wanted to use force and attack the Russians in their position?

A I have not heard of any such thing.

Q I suggest that both you and Admiral YONAI objected to that and took the view that while he might move troops up as a precaution, you were both of you absolutely opposed to any attack being made on the

UGAKI

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Russians. Do you remember that?

1 A I do not remember that well.

2 Q Was that your view?

3 A In the first place, I do not even recollect
4 that the three of us got together and had such a
5 meeting.

6 Q Well, I am trying to refresh your memory.
7 But tell me now, was it your opinion that no attack
8 should be made on the Russians?

9 A It was my opinion, and I also recollect that
10 War Minister ITAGAKI also held the same opinion.

11 Q Was it Admiral YONAI's opinion?

12 A I do not remember that Admiral YONAI ever
13 participated in such a meeting.

14 Q But did he express that opinion to you?

15 A No.

16 Q Did not both you and Admiral YONAI go and
17 express that opinion to the Emperor?

18 A It is true that I went to the Emperor to
19 report on another matter concerning foreign affairs.
20 On that occasion I reported to the Emperor that the
21 Soviet might take an offensive and cross the border.
22 In such an eventuality, the army must be prepared.

23 THE MONITOR: Must be prepared in order to cope
24 with the situation.
25

UGAKI

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1 Q And didn't he accuse ITAGAKI of trying to
2 deceive him?

3 A I do not know.

4 Q And didn't you hear that the Emperor said
5 that this was as bad as the Manchukuo and Marco Polo
6 Bridge cases where there was no obedience to central
7 orders?

8 A I do not know.

9 Q And didn't you hear that the Emperor said
10 that ITAGAKI mustn't move one soldier without his
11 express command?

12 A No.

13 Q And I suggest to you that it was for that
14 reason that ITAGAKI and the Chief of Staff both threatened
15 to resign.

16 A I have never heard of any such thing. I do
17 not know if such a thing occurred or not.

18 Q Well, now, didn't it come to your knowledge
19 because didn't ITAGAKI and the Chief of Staff say that
20 it was you that had deceived the Emperor?

21 A I have not heard of any such thing at all.

22 Q And wasn't there considerable trouble until
23 finally ITAGAKI agreed to remain on and to try and
24 carry out the Emperor's orders?

25 A I have not heard of any such thing. There may

UGAKI

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1 have been such things going on between the palace and
2 the military command.

3 Q Yes. But I am trying to refresh your memory
4 by suggesting to you that you were brought into it
5 because of this dispute as to what you and ITAGAKI
6 had said.

7 I think you told us, General UGAKI, when
8 you gave evidence before that you were not popular
9 with some of your old colleagues in the army because
10 back in 1928, I think, you had been responsible for
11 reducing the army by four divisions; that's right,
12 isn't it?

13 A Yes.

14 Q And they pursued you all through your political
15 life, didn't they? How about that?

16 A I do not know if "pursued" would be the right
17 word, but it is true that some of them did obstruct
18 my efforts to form a cabinet. Other than that I do
19 not know.

20 Q And don't you know that on several occasions
21 after that, that their opposition prevented you from
22 being recommended as Prime Minister?

23 A I do not remember any such thing at all. It
24 may have occurred -- such occasions may have occurred.
25

A And I am suggesting to you that on this

UGAKI

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1 occasion, at the time of this Changkufeng Incident,
2 some of your old army colleagues made it the occasion of
3 further attacks upon you because of this dispute between
4 you and ITAGAKI as to what you had said to the Emperor?

5 A I have never heard that any such occurrence
6 took place.

7 Q Now, later in that incident was there further
8 fighting broke out on another hill other than the
9 actual hill of Changkingfeng -- no, I have got the
10 name wrong: Changkufeng?

11 A I am afraid I do not remember such details.
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1 Q Did it come to your knowledge that the
2 Japanese had attacked the Russians at a second hill
3 and that the commander on the spot had given the
4 excuse that the Emperor's order that no attack
5 should be made only applied to the Chang Kufeng Hill?
6 The name of the second hill, to refresh your memory,
7 as given in Japanese, was "Shachaofeng."

8 Do you remember that?

9 A I do not remember those small details about
10 the Chang Kufeng Incident. I took it up as a whole
11 as the Chang Kufeng Incident.

12 Q Yes. But the reason why I am asking you
13 about this second place was that I am suggesting
14 that the Army, having made an attack there, said
15 they had not disobeyed the Emperor's order because
16 his order only applied to Chang Kufeng.

17 A I have never heard of any such thing, but
18 I hardly believe that there is any Army officer
19 capable of making such a poor excuse.

20 Q And in fairness to ITAGAKI, I suggest to
21 you that, when that happened, he did admonish the
22 Army.

23 A That is only natural, I believe.

24 Q Yes. But, do you remember whether it
25 happened?

UGAKI

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1 A I do not remember.

2 Q Well, now I come to SHIGEMITSU and the
3 negotiations in Moscow. According to you, SHIGEMITSU
4 from the very beginning, as I understand your affi-
5 davit, was doing his best to get the incident
6 settled and prevent it from breaking into war.

7 A Yes.

8 Q And you thought so highly of his efforts
9 that you recommended him for promotion.

10 A That was also included.

11 Q Now, do you know that, as a matter of fact,
12 on the 20th of July, 1938 SHIGEMITSU had an inter-
13 view with Litvinov in Moscow?

14 A I believe such a meeting must have taken
15 place.

16 MR. COMYNS CARR: Your Honor, the records of
17 this meeting are in exhibit 754 and, at greater
18 length though to the same effect, in exhibit 2633.

19 Q Did you know that on that occasion Litvinov
20 produced to SHIGEMITSU the Hun Chun Agreement with
21 the map attached to it?

22 A I suppose such a thing must have taken place.
23 It is only natural that it should have.

24 Q And that SHIGEMITSU said that it was un-
25 reasonable to talk about some map at this critical

UGAKI

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moment?

1 A I do not remember well, but I believe that
2 is only natural if he actually did say something
3 like that.

4 Q Was it in accordance with your instructions
5 to him, then, that he should decline to discuss the
6 matter on the basis of the treaty which set up the
7 boundary?

8 THE PRESIDENT: Major Furness.

9 MR. FURNESS: I submit, your Honor, that
10 that does not take into consideration the complete
11 record of the conversation, and that is the reason
12 that I introduced the complete record.

13 THE PRESIDENT: Documents are commonly used
14 that way in cross-examination. Frequently a witness,
15 in making a statement about one paragraph of a docu-
16 ment, is contradicted by the next. Such cross-
17 examination can be very effective and would be utterly
18 destroyed if the whole document is to be dealt with
19 at once or revealed at once.

20 MR. FURNESS: I submit that it should not,
21 however, be used to mislead in that manner.

22 THE PRESIDENT: I can see no misleading here.

23 Q Now, would you answer the question: Was it
24 in accordance with your instructions that SHIGEMITSU
25

UGAKI

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1 should refuse to discuss the matter on the basis of
2 the treaty and map between Russia and China?

3 A I did not ever send out any such instructions.

4 Q Or that he should refuse to discuss it on
5 the basis of the map. What do you say?

6 A I have no recollection of having sent out
7 any such instructions.

8 Q Do you know that he said, and this time to
9 oblige my friend I am quoting exactly from his own
10 exhibit, this to Litvinov? After saying that there
11 was no doubt whatsoever that this was Manchoukuoan
12 territory, do you know that he went on to say,
13 "Therefore, Japan has the right and obligations to
14 Manchoukuo to use force in order to make the Soviet
15 troops evacuate from the territory of Manchoukuo
16 unlawfully occupied by them"?

17 THE MONITOR: Mr. Comyns Carr, is it in the
18 affidavit?

19 MR. COMYNS CARR: No.

20 A The border line in the area of Chang Kufeng
21 is very vague, and there is a discrepancy between
22 the border as asserted by the Soviet side and the
23 border as asserted by the Manchurian side. Therefore,
24 SHIGEMITSU may have stated -- may have said the words
25 you said that he said. I think that is only natural.

UGAKI

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1 Q Then, was it in accordance with your in-
2 structions that he should threaten the Russians
3 in that manner?

4 A If the other party ~~were~~ a minor power, I
5 do not know, but I do not think that a great power
6 such as the Soviet Union would budge because of
7 words like that. Therefore, I do not believe that
8 SHIGEMITSU did actually use such language.

9 Q Curiously enough, General, you have antici-
10 pated exactly the words which Litvinov used in reply
11 to that remark. Let me read them to you, and I'll
12 ask you whether --

13 THE MONITOR: Mr. Comyns Carr, would you
14 please repeat that?

15 Q (Continuing) What I said was, curiously
16 enough, General, you have anticipated the words which
17 Litvinov used in reply to that remark.

18 A That may be so.

19 MR. COMYNS CARR: Well, that being so, per-
20 haps it is not worth taking up the time of the Tri-
21 bunal by reading them.

22 THE PRESIDENT: We will recess now for
23 fifteen minutes.

24 (Whereupon, at 1045, a recess was
25 taken until 1100, after which the proceed-
ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Comyns Carr.

4 CROSS-EXAMINATION

5 BY MR. COMYNS CARR (Continued):

6 Q General UGAKI, you say in your affidavit
7 that you were exchanging telegrams with SHIGEMITSU
8 almost daily?

9 A Yes.

10 Q On or about the second of August 1938 did
11 you complain to the Premier, KONOYE, that you were
12 worried because you weren't getting any reports from
13 SHIGEMITSU?

14 A I do not remember.

15 Q Did it come to your knowledge that SHIGEMITSU
16 had refused to have another interview with Litvinov,
17 whatever instructions he received, because he said
18 that Litvinov had on some previous occasion refused
19 to see him?

20 A I have not heard of any such thing.

21 Q Did you at any time express the opinion that
22 SHIGEMITSU was acting under restraint by the army?

23 A No.

24 Q What was the position of HORINOUCI at
25 this time? Was he Vice Minister or an official in

UGAKI

CROSS

the Foreign Ministry?

1 A He was Foreign Vice Minister; that is
2 HORINOUCI, Kensuke.

3 Q Do you know that according to him about the
4 9th or 10th of August SHIGEMITSU had sent an official
5 telegram to you which he described as one which a
6 military man might have sent?

7 A I did not hear of any such thing.

8 Q Did you form that opinion yourself?

9 A I have never formed such an opinion myself.

10 Q Were you so much shocked by it that you,
11 Admiral YONAI, and ITAGAKI sat up all night waiting
12 for news as to whether he carried out your instruc-
13 tions?
14

15 A I never did any such thing.

16 Q And planning what to do if the negotiations
17 broke down?

18 A No, I was doing my best to solve the incident
19 peaceably and I did not believe that the situation
20 was hopeless.

21 Q No, I agree that you were doing your best,
22 but what I am suggesting to you is that at the time
23 you took a different view from what you are telling
24 us now and you took the view that SHIGEMITSU was
25 obstructing the negotiations.

UGAKI

CROSS

A I never had such an opinion.

Q Did you again on the 8th of August complain that SHIGEMITSU was sending you very few reports of what was happening?

A No, I never did.

Q And that SHIGEMITSU was haggling and appeared to be afraid of the army?

A No, I never.

Q Did you say on the 9th of August that you were going to settle the matter quickly and send instructions that SHIGEMITSU could not fail to understand?

A I was unable to understand your question very well.

(Whereupon, the question was re-interpreted.)

A Since from the very beginning I had been hoping for a speedy solution of the incident I may have sent such a telegram at the time -- such instructions.

Q What I am suggesting to you is, you formed the opinion at the time that the reason why this speedy solution didn't come about was that SHIGEMITSU was standing out for terms wanted by the army but not by you?

UGAKI

CROSS
REDIRECT

1 A I never had any such ideas.

2 MR. COMYNS CARR: That concludes my cross-
3 examination.

4 THE PRESIDENT: Major Furness.

5 REDIRECT EXAMINATION

6 BY MR. FURNESS:

7 Q General UGAKI, it is true, is it not, that
8 you sent instructions to SHIGEMITSU to protest the
9 occupation of what was considered Manchukuoan territory
10 and to demand the withdrawal of Russian troops?

11 MR. COMYNS CARR: Your Honor, I submit that
12 that question is objectionably leading.

13 THE PRESIDENT: Yes, it is in leading form
14 but I do not suppose it matters very much at this
15 stage.

16 You had better reframe it.

17 Q Was it your information at the time that
18 Russian troops had occupied Manchukuoan territory?

19 A Yes.

20 MR. COMYNS CARR: Your Honor, so is that
21 question, I submit.

22 THE PRESIDENT: It really suggests the answer,
23 but why bother about these things?

24 Q Was it in accordance with your instructions
25 that in this talk with Mr. Litvinov on July 20,

UGAKI

REDIRECT

1 exhibit 2633, that SHIGEMITSU stated that hostilities
2 should be avoided by the withdrawal of troops and
3 then the matter of the map and the Hunchun treaty
4 discussed?

5 A Yes.

6 Q Did Japan have an agreement with Manchukuo
7 for the protection of her border?

8 A Negotiations had been begun for such an
9 agreement, but as I resigned as Foreign Minister
10 shortly thereafter I do not know how these negotia-
11 tions were concluded. I do know that such negotia-
12 tions were begun.

13 Q I am not speaking of demarcation of the
14 border. I am speaking of the obligation of Japan
15 to protect the border. I am speaking of the agree-
16 ment for joint defense of her border.

17 A Yes, I do know about that agreement.

18 Q Did you have any knowledge of any map
19 attached to the Hunchun border agreement?

20 A Although I have never seen the map I have
21 heard of explanations regarding this border and know
22 about it.

23 Q At the time in July, 1938, was any such map
24 in the possession of the Japanese Foreign Office?
25

A Of course, I suppose we did have such a map.

UGAKI

REDIRECT

Q No such map had been published, had it?

1 A The Foreign Office never published such a
2 map.

3 Q And no such map was in the possession of
4 the Japanese Embassy in Moscow?

5 MR. COMYNS CARR: I must object to that
6 question really. Not only is it extremely leading
7 but obviously couldn't be within the witness' know-
8 ledge, what was in the possession of the Embassy at
9 Moscow.
10

11 THE INTERPRETER: The witness replied: I
12 do not know whether the Embassy -- I am afraid I do
13 not know as to what the Embassy did or did not have.

14 THE PRESIDENT: Are you pressing it,
15 Major Furness?

16 Q Had you ever seen such map at that time?

17 A I don't remember very well; probably I have
18 seen it.

19 Q I mean in July 1938.

20 A After the outbreak of the incident I am sure
21 I must have seen that map.

22 Q Who in your opinion at the time was most
23 responsible for the peaceful settlement of this
24 incident?

25 A SHIGEMITSU and myself.

UGAKI

REDIRECT

1 Q And is that still your opinion?

2 A Yes.

3 MR. FURNESS: That completes the redirect
4 examination. I request that the witness be excused
5 on the usual terms.

6 THE PRESIDENT: He is excused accordingly.

7 (Whereupon, the witness was excused.)
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1 MR. FURNESS: I now offer in evidence Defense
2 documents Nos. 1607-A, B, C, and D. These are ex-
3 cerpts from the diary of Litvinov of August 10, 1938,
4 with Ambassador SHIGEMITSU. I make this tender with-
5 out waiving my request that I be furnished with the
6 complete entry in the diary of that date and of the
7 following day, the 11th of August, 1938, which
8 General Vasiliev told the Tribunal he would gladly
9 submit as soon as he received it from Moscow after
10 his request. Since this statement by General Vasil-
11 iev was made on 23 May 1947 (record page 22873),
12 I assume that the prosecutor for the Soviet Union
13 has already made the request and that I will be ad-
14 vised as soon as he receives it from Moscow.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Defense documents
17 1670-A, B, C, and D will receive exhibit numbers
18 2716-A, B, C, and D.

19 (Whereupon, the documents above referred
20 to were marked defense exhibits 2716-A, B, C,
21 and D, respectively, and received in evidence.)

22 MR. FURNESS: I read exhibit 2716-A, B, C,
23 and D. I wish to say that I don't know what order
24 the excerpts from Mr. Litvinov's diary are in, be-
25 cause the excerpts were delivered to me by the prose-

1 cution and I think they don't know themselves.

2 THE PRESIDENT: They are in alphabetical
3 order. Read them in that order.

4 MR. FURNESS (reading): "SHIGEMITSU stated
5 that the contents of the previous interview had been
6 communicated to his government in its entirety, and he
7 wanted to make more precise my proposal made to him
8 last time. SHIGEMITSU read the resume of my counter-
9 proposal, and then made the following additional state-
10 ment:

11 "Danger consists in the fact that the troops
12 of both sides stand vis-a-vis on one line. He,
13 SHIGEMITSU, wants to understand that the proposal on
14 the cessation of military activities will be accompan-
15 ied by retreat of the troops of both sides from the
16 indicated line. If the troops of both sides retreat
17 from the line for a certain distance after the cessa-
18 tion of military activities, tranquility will reign
19 on the border and then it will be possible to proceed
20 to the demarcation of this section of the border. He
21 wanted to fix that time.

22 "I said to SHIGEMITSU that he had repeated
23 exactly what I had proposed last time. but what he had
24 added did not correspond to what I had proposed. I
25 said that it was necessary to recognize the line

1 indicated on the map of the Hunchun agreement, and both
2 sides should not cross or fire through it. I did not
3 propose, and I do not propose to withdraw troops, at
4 least our troops. If the Japanese side wants to with-
5 draw its troops, that is its affair, but we will not
6 withdraw our troops, and they did not fire. They will
7 not fire in the future, while remaining on that line,
8 if only there is no firing from the other side. Con-
9 cerning the commission, I talked about redemarcation
10 but not about demarcation."

11 Passing to B:

12 "I said to SHIGEMITSU that I would summarize
13 my counter-proposal in the following way. We are
14 agreed to cease military activities, if both sides
15 bind themselves not to cross, and not to fire across
16 a certain line. If either side is found beyond this
17 at the time of agreement, it must be called back with-
18 out delay. The line must be that line which is drawn
19 on the map of the Hunchun agreement, in other words,
20 the position of the troops existed before July 29, that
21 is, before the beginning of the military activities,
22 must be restored. When tranquility comes, it will be
23 possible to proceed to redemarcation of the border in
24 the section concerned on the basis of the Hunchun
25 agreement and the map and the Protocols attached there-

1 to. If the Japanese side produces another agreement
2 between Russia and China concluded after the Hunchun
3 agreement, it will serve as basis of the work of the
4 commission. The commission must be bilateral. On
5 the one hand, two representatives of the USSR and on
6 the other side one representative each from Japan and
7 Manchoukuo."

8 Passing to C:

9 "I said to SHIGEMITSU that I would have to
10 remind him of the history of the conflict. It began
11 when on July 20 the Ambassador came to me and demanded
12 the withdrawal of our troops from the Chankufin hill.
13 We answered in the negative, stating that our troops
14 were within the bounds of our territory and we could
15 not move them in accordance with a demand of any other
16 state. If we would have agreed with the demands made
17 by the Ambassador, that would have satisfied the Jap-
18 anese Government. But we did not agree. Now the
19 Ambassador makes the same proposal, which we rejected
20 at that time. Does he think that, in reward to the
21 provocative attacks of Japanese troops during almost
22 12 days, we agree to what we refused before? No. we
23 must also be negative to this proposal as at the begin-
24 ning of the conflict. But if the Ambassador already
25 thinks that our troops are now in the east of the

1 line which we think to be the border, we are ready to
2 remain there where we stand, provided that the Japan-
3 ese side move its troops one Kilometer, as they find
4 themselves on the territory which the Japanese side
5 disputes, according to the declaration itself of the
6 Ambassador. In other words, we remain there where we
7 stand, but the Japanese troops move away one Kilometer.
8 "We bind ourselves not to enter the zone which will be
9 formed. In order that there will not be any dispute,
10 I propose to fix a certain time. I may say that our
11 troops stay at the place where they find themselves
12 at 24 hours (local Maritime Province time), and the
13 Japanese troops retreat one kilometer from the line
14 which they occupy at 24 hours on August 10."
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Passing to D.

1 "Then I said to SHIGEMITSU that I wished
2 to know what he thought regarding the cessation
3 of hostilities. We can adopt the first proposal,
4 that is, the proposal on the cessation of hostilities,
5 and then continue to study other questions.

6 "SHIGEMITSU stated that conclusion of the
7 agreement on the cessation of hostilities was
8 desirous. He would give his reply in two hours.

9 "After two hours MIYAKAWA, Secretary of
10 SHIGEMITSU, came and stated that Ambassador SHIGEMITSU
11 agreed on the following:
12

13 "1. The Japanese and Soviet troops shall
14 cease all military activities on August 11 at 12
15 o'clock local time. In this connection necessary
16 instructions shall be issued.

17 "2. The Soviet troops shall stay on the
18 line which they occupy at 12 o'clock on the night
19 (24 hours) of August 10 local time. The Japanese
20 troops shall retreat one kilometer to the west from
21 the line which they occupy at that time, that is,
22 at 24 hours of August 10 local time.

23 "3. Representatives of both troops shall
24 meet for the cessation of military activities, and
25 agree on necessary conditions (exchange of those

killed or taken prisoner, etc.)

1 "In compliance with the directive from the
2 Kremlin received just at that time, I said to
3 MIYAKAWA that I would request him to transmit
4 to Ambassador SHIGEMITSU that I had also taken due
5 consideration of the situation, and decided not
6 to insist on the necessity, for justice' sake, for
7 the Japanese troops to retreat one kilometer. We
8 do not insist on their retreat, but you may take
9 them away, that will be better. Thus the second
10 point can be formulated in the following way: The
11 Soviet and the Japanese troops shall remain on those
12 lines which they occupy at 24 hours of August 10
13 local time."

15 I now tender for identification defense
16 document No. 1730, which is a book entitled,
17 "Diplomatic Documents during the Ching Dynasty,"
18 Volume 68, published in Peking, China, January
19 1932 and I offer in evidence an excerpt therefrom
20 which is an annex to the protocol border lines
21 between China and Russia on the border east of
22 Hunchun, dated June 3, 1886. This document is tendered
23 in place of defense document No. 1510, which was
24 offered and temporarily withdrawn on 21 May, 1947,
25 see Record, pages 22,701 to 22,712.

THE PRESIDENT: Mr. Tavenner.

1 MR. TAVENNER: If the Tribunal please, the
2 protocol in question, which is the protocol for the
3 Hunchun Agreement, was introduced in evidence
4 in the prosecution phase of the case as exhibit
5 2175 and an excerpt therefrom as exhibit 753. This
6 document being tendered purports to be the same
7 protocol, but I understand it is from the Chinese
8 text of the treaty rather than from the Russian
9 text of the treaty. If the purpose of the presentation
10 of this document is to impeach the document presented
11 by the prosecution, we would insist that the document
12 now being tendered be the official Chinese document
13 and not some unofficial document.

14 THE PRESIDENT: That is the proper way
15 to do it.

16 MR. FURNESS: If the Court please, this
17 book which I tendered was published in China, is
18 in the Chinese language, and the translation is
19 certified to be direct from the Chinese text of the
20 agreement. This Chinese text has been compared with
21 another Chinese text in a book entitled, "Treaties
22 between China and Other Foreign Countries", published
23 in Shanghai in 1935; and the Chinese text in the
24 book printed by the Japanese Foreign Office entitled,
25

1 "Collection of Border Treaties between Manchukuo
2 and the Union of Soviet Socialist Republic,"
3 compiled in July 1943, an official document of the
4 Bureau of Treaties on which defense document 1510
5 was based. All three Chinese texts were found to
6 be identical. I submit that there can be no doubt
7 that these are accurate copies of the Chinese text
8 since there would be no motive in the powers of any
9 of the three publishers for falsifying the Chinese
10 text and that it should be received by the Tribunal
11 as a copy, the original not being readily available,
12 on what the Court calls "the usual terms."

13 MR. TAVENNER: If the Tribunal please,
14 nevertheless the documents mentioned by counsel
15 are not official documents. To show the doubt
16 about the matter there is a difference in the
17 translation between document 1510 and the one now
18 being presented. If the original Chinese text of
19 the treaty is obtained, it may develop that it is
20 similar to one or the others of those presented
21 by the defense.

22 THE PRESIDENT: Why can't we get the certified
23 copy of the original itself by the person who was
24 in custody of it?

25 MR. FURNESS: I want to say one thing, your

1 "Collection of Border Treaties between Manchukuo
2 and the Union of Soviet Socialist Republic,"
3 compiled in July 1943, an official document of the
4 Bureau of Treaties on which defense document 1510
5 was based. All three Chinese texts were found to
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17 translation between document 1510 and the one now
18 being presented. If the original Chinese text of
19 the treaty is obtained, it may develop that it is
20 similar to one or the others of those presented
21 by the defense.

22 THE PRESIDENT: Why can't we get the certified
23 copy of the original itself by the person who was
24 in custody of it?

25 MR. FURNESS: I want to say one thing, your

1 Honor. That is, all these three texts are in the
2 same Chinese words. It is just a different trans-
3 lator was used in translating defense document 1730.
4 I thought that I could save time if I presented a
5 document published in China of a treaty between China
6 and Russia. If not, I wish to renew my request that
7 the Tribunal exercise its power to obtain, if it is
8 available, from the Chinese Government a copy of
9 the original Chinese text.

10 MR. TAVENNER: If the Tribunal please, I
11 would like to call your attention also to the fact
12 that this document now being presented is only a
13 part of the protocol. The protocol includes by
14 reference a map. It presents another question, of
15 course, in the event there should be a discrepancy
16 between the Chinese text and the map. Under our
17 contention the map, of course, would control.

18 THE PRESIDENT: To save time, I suggest
19 that the parties concerned, you Mr. Tavenner and
20 Major Furness, confer with your Russian and Chinese
21 interpreters to see whether you can agree on something.
22 I base that mainly on inquiries by my colleagues about
23 certain features. I think the only way to solve
24 the matter is the way I suggest.

25 MR. FURNESS: The trouble with that, if your

1 Honor please, is that we have already done it.

2 THE PRESIDENT: First tell me what is the
3 purpose of introducing this document which has already
4 been introduced? That is an inquiry by one of my
5 colleagues.

6 MR. FURNES: It is our contention, if your
7 Honor please, that while the Russian text may be
8 correctly translated, there is a difference between
9 the Russian text and the Chinese text.

10 THE PRESIDENT: You are suggesting a difference
11 between the originals.

12 MR. FURNES: Yes. One is in Russian.

13 THE PRESIDENT: Is it a real difference or
14 something that matters?

15 MR. FURNES: A real difference, your Honor;
16 the difference between a border.

17 THE PRESIDENT: That being so, we would
18 require certified copies of the originals by the
19 person who has the custody and including the maps.

20 MR. FURNES: We then request the Court to
21 exercise its power, which it said it would, to obtain
22 such document from the Government of China.

23 THE PRESIDENT: As I said before, how ludicrous
24 for a court like this to act on copies which may be
25 wrong when the originals are available.

1 MR. FURNESS: The original is not avail-
2 able here in Japan, if your Honor please. It is
3 in China and --

4 THE PRESIDENT: I know what the Charter
5 says about documents not being immediately available.
6 But notwithstanding the Charter we are going to be
7 very, very cautious in these matters. The Charter
8 doesn't intend anything else.

9 MR. FURNESS: If your Honor please, on the
10 21st of May 1947, record pages 22,701 to 22,712, the
11 Tribunal granted my request to exercise its power
12 to obtain such original or certified copy from the
13 Government of China. I thought I could save time
14 if I produced the document published in China. I
15 find I cannot. Therefore, I am renewing my request
16 to get the aid of the Court in obtaining that original
17 document or certified copy from the people who have
18 its custody.

19 THE PRESIDENT: We are taking no risks.

20 MR. TAVENNER: May I have one more word to
21 say on the subject?

22 THE PRESIDENT: Can you help?

23 MR. TAVENNER: We have no objection to the
24 production of the official documents mentioned,
25 but it does seem pointless. There is no dispute that

1 the map in question is a part of the treaty. If
2 there be a discrepancy in the general description
3 in the Chinese text of the treaty the map would
4 still, under our contention, control and the
5 delineation on that map of the boundary line would
6 resolve the question.

7 THE PRESIDENT: I would not care to be
8 dogmatic about that, as to how far a map would
9 overrule a description.

10 We will adjourn now until half-past one.
11 Look into it during the adjournment.

12 (Whereupon, at 1200, a recess was taken.)
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1 AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at
4 1330, Hon. Myron C. Cramer, Member from the United
5 States of America, not sitting.

6 MARSHAL OF THE COURT: The International
7 Military Tribunal for the Far East is now resumed.

8 THE PRESIDENT: I understand a correction is
9 to be made.

10 CLERK OF THE COURT: Correction on defense
11 documents 1670-A, 1670-B, 1670-C and 1670-D. Defense
12 document 1670-A will receive exhibit No. 2716; defense
13 document 1670-B will receive exhibit No. 2716-A;
14 defense document 1670-C will receive exhibit No. 2716-B;
15 defense document 1670-D will receive exhibit No. 2716-C.

16 (Whereupon, the documents above
17 referred to were marked as above indicated.)

18 THE PRESIDENT: No doubt the Judges would desire
19 to have their copies corrected.

20 Major Furness.

21 MR. FURNESS: If the Court please, on page
22 22,712 of the record the Court stated, "China is
23 represented on this Tribunal. If you apply in Chambers
24 for an order for this document (referring to Annex 1
25 of the Hunchun Border Protocol), directed to the Chinese

1 Government, you will get that order. Or shall I say
2 'request'?"

3 Continuing, the President said, "If the re-
4 quest is not complied with, then you will be able to
5 use copies."

6 The President said, "I could say the request
7 was granted now. We will direct that the Chinese Govern-
8 ment be communicated with by telegram through the
9 Supreme Commander."

10 I thought if I produced a copy of the text
11 published in China it would be sufficient, but I now
12 renew the request and ask that the Court do as it said
13 it would, that is, direct that the Chinese Government
14 be communicated with by telegram through the Supreme
15 Commander, in order to get the original or copy of
16 that agreement from China.

17 THE PRESIDENT: Act on what we have done. Do
18 not ask us to do it again. We have directed the
19 telegram be sent to China through the Supreme Commander.

20 MR. FURNESS: Do I understand, then, that the
21 tender of this Chinese text, published in China, is
22 rejected?

23 THE PRESIDENT: It is not accepted until you
24 can show the original is not available.

25 MR. FURNESS: I will take it up with the

1 Secretariat in order that that matter be --

2 THE PRESIDENT: Withdraw it.

3 MR. FURNESS: If the Court please, this com-
4 pletes the evidence which is now available regarding
5 the Changkufeng Incident, except for the witness
6 HAYASHI, who has, I understand, submitted certain
7 documents and records of the Foreign Office to the
8 prosecution. I understand from Mr. Tavenner that the
9 prosecution is not yet ready to have him recalled.
10 Before making any requests that he be recalled, they
11 will advise me so that I may talk with him and may be
12 present at further inquiries which they may wish to
13 make.

14 I plan at some stage during the trial to offer
15 in evidence communiques of the Foreign Office relating
16 to this incident, but will probably reserve such proof
17 for the phase relating to individual defenses. The
18 communiques were based on telegrams which cannot now
19 be produced for which the non-production has, I sub-
20 mit, been accounted for by the fires which destroyed
21 the Foreign Office and by the burning of documents at
22 the Embassy in Moscow on the entry of Russia into the
23 war.
24

25 Finally, I would like to ask whether the prosecu-
 tion has cleared that matter on exhibit 983 with regard

1 to the statement made in the argument on this -- for
2 dismissing counts of the Indictment, that is, that
3 SHIGEMITSU was decorated for service in concluding
4 the Tri-Partite Pact -- the Anti-Commintern Pact.
5 I think they should be ready since I talked with Mr.
6 Comyns Carr and others of the prosecution as far back
7 as last January and had several conferences with them.
8 I took it up again when the Russian phase was under way
9 and told them that I would again raise the matter when
10 I presented evidence which was not available on my first
11 presentation. I ask, are they ready to make any state-
12 ment to withdraw that?

13 MR. COMYNS CARR: I am not, at present, ready
14 to deal with the matter, your Honor. As a matter of
15 fact, it was only yesterday that I understood what my
16 friend's point really was, and I am investigating it.

17 MR. FURNESS: It is a very simply matter, if
18 your Honor please, to look up exhibit 983 on which he
19 apparently based his statement. I also wish to say
20 again that I talked to him in January and I was told
21 that that statement would be withdrawn.

22 THE PRESIDENT: Let us clear it up now. Are
23 you finding fault with the exhibit or with the state-
24 ment made by the prosecutor?

25 MR. FURNESS: I am finding fault with the

1 to the statement made in the argument on this -- for
2 dismissing counts of the Indictment, that is, that
3 SHIGEMITSU was decorated for service in concluding
4 the Tri-Partite Pact -- the Anti-Commintern Pact.
5 I think they should be ready since I talked with Mr.
6 Comyns Carr and others of the prosecution as far back
7 as last January and had several conferences with them.
8 I took it up again when the Russian phase was under way
9 and told them that I would again raise the matter when
10 I presented evidence which was not available on my first
11 presentation. I ask, are they ready to make any state-
12 ment to withdraw that?

13 MR. COMYNS CARR: I am not, at present, ready
14 to deal with the matter, your Honor. As a matter of
15 fact, it was only yesterday that I understood what my
16 friend's point really was, and I am investigating it.

17 MR. FURNESS: It is a very simply matter, if
18 your Honor please, to look up exhibit 983 on which he
19 apparently based his statement. I also wish to say
20 again that I talked to him in January and I was told
21 that that statement would be withdrawn.

22 THE PRESIDENT: Let us clear it up now. Are
23 you finding fault with the exhibit or with the state-
24 ment made by the prosecutor?
25

MR. FURNESS: I am finding fault with the

1 exhibit; I am finding fault with the statement made
2 by the prosecutor; I am finding fault with the entire
3 matter because his statement, I submit, has no basis
4 of evidence or of fact.

5 THE PRESIDENT: So far as his statement is at
6 variance with the exhibit, that is, the evidence, we
7 disregard it. If it is at variance. If the exhibit
8 is not correct you can correct it by your evidence.
9 There is no need to refer to the matter again.

10 MR. COMYNS CARR: Your Honor, it is, of course,
11 obvious that the exhibit number which I appear to have
12 quoted has nothing to do with it, and to that extent
13 I am obviously in error. I am at present checking
14 whether the statement itself was right or wrong and
15 whether I merely quoted the wrong exhibit number or
16 got hold of some wrong information. As soon as I have
17 completed that inquiry, I will let the Tribunal know
18 the result.
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1 THE PRESIDENT: Major Blakeney.

2 MR. BLAKENEY: At this time the witness, YANO,
3 Mitsuji, was to have been recalled for further cross
4 examination. I am, however, advised by the Russian
5 prosecution that they waive further cross examination
6 and wish instead to make a statement of some nature.

7 COLONEL SMIRNOV: Your Honor, we tried to
8 comply with the ruling of the Court and examined the
9 map presented by the defense yesterday but it turned
10 out to be impossible as we found out that the defense
11 submitted to the Court, not the whole map and not
12 even those parts which were shown to the witness for
13 identification, but only one sheet torn from the con-
14 text. We would not like to make any premature state-
15 ments, but it is absolutely clear that this map needs
16 most careful topographical and may be even criminalistic
17 study. Therefore, we most emphatically request the
18 Honorable Tribunal to rule that the defense should (a)
19 submit to the Tribunal not the part of the map, but the
20 whole of it, and in particular that title sheet which
21 was shown to the witness yesterday. (b) Produce a
22 certificate of origin of this map and of the place
23 where it was kept in custody. (c) Prepare immediately
24 the photo-copies in the original scale of the map which
25 will serve the purposes of the detailed study of the

1 document.

2 As the cross-examination of YANO, Mitsuji,
3 can in no way serve the purposes of serious and overall
4 study of the documents, we do not desire to cross-
5 examine now in the interests of saving time. But we
6 reserve the right of submitting, at proper time, the
7 results of the checking of this map and also carto-
8 graphical materials at our disposal, among them, maps
9 prepared by the Manchurian Dynasty.

10 THE PRESIDENT: Major Blakeney.

11 MR. BLAKENEY: It is somewhat sensational but
12 I don't know whether it gets us any further. I will,
13 however, be glad, if desired, to submit for identifica-
14 tion the other maps, not the other part of this map,
15 and should cheerfully do so now if I had them in the
16 court room, which I have not.

17 THE PRESIDENT: We should have the whole of
18 the document perused by the witness in the box and as
19 a result of further cross-examination we may insist
20 on further maps being produced if it is alleged they
21 are parts of maps perused by the witness. Subject to
22 what my colleagues think, I think we should have the
23 assistance of further cross-examination before we do
24 anything, keeping in mind that the purpose of cross-
25 examination is to discredit the witness and destroy his

testimony.

1 MR. BLAKENEY: Of course, the only testimony
2 given by the witness in connection with these maps was
3 where the boundary line is shown on the maps. He also
4 said the maps appeared to be in Russian which he could
5 not read.
6

7 THE PRESIDENT: As far as the question raised
8 by the Russian prosecutor can be dealt with by the
9 witness, he should be cross-examined. If they are out-
10 side the scope of his knowledge and of his testimony
11 no further cross-examination is necessary and they
12 should be dealt with independently.

13 MR. BLAKENEY: I think we both agree that the
14 last is the position. If what the prosecution actually
15 desire is a certificate of origin and custody of the
16 documents I will be glad to undertake to secure one.

17 COLONEL SMIRNOV: Your Honor, we would only
18 like to get from the defense the map which was shown
19 to the witness yesterday. The point is that the
20 witness yesterday was shown first the title sheet and
21 then the other sheets of the map. The interpreter
22 read the inscriptions on the title list. Then these
23 lists of the map -- sheets of the map -- disappeared
24 and were not tendered to the Tribunal and only the
25 seventh sheet of the map was tendered.

1 MR. BLAKENEY: I will be glad to tender what
2 counsel calls the title sheet. I have no objection.

3 COLONEL SMIRNOV: We are interested in all
4 sheets of this map and besides we are interested in
5 getting a certificate as to the original source of the
6 map and the place this map was kept in custody. I can't
7 agree with my learned colleague because I am trying to
8 avoid being sensational before further study of the map
9 but I think it necessary to study this map thoroughly
10 and carefully. For this purpose I should have, at
11 any rate, the original of the map tendered for identi-
12 fication, and it is necessary for me to have such photo-
13 copies of the document which would enable me to study
14 it carefully by topographical and criminalistic
15 methods.

16 THE PRESIDENT: They should be allowed to
17 peruse and they should be tendered for identification
18 not only the title sheet but all related parts.

19 COLONEL SMIRNOV: That is all we ask for. And
20 besides we insist that the defense should produce cer-
21 tificate to this map.

22 THE PRESIDENT: When they come to tender it,
23 we will have to consider that, certainly.
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1 MR. BLAKENEY: All of those things I have
2 already offered to do and to produce.

3 COLONEL SMIRNOV: As far as the witness is
4 concerned, we do not think it necessary to cross-examine
5 him because the witness stated himself that he doesn't
6 know the Russian language, and, therefore, his cross-
7 examination will hardly give anything useful for the
8 clarification of the origin of this map.

9 THE PRESIDENT: That is what we suggested
10 yesterday afternoon.

11 MR. BLAKENEY: With the exception of a few
12 matters reserved, that concludes the Russian phase.

13 Evidence will now be presented by Mr. Roberts
14 dealing with matters from earlier phases which, also,
15 was reserved for one reason or another at the time.

16 THE PRESIDENT: General Vasiliev.

17 GENERAL VASILIEV: In connection with the
18 statement made by the defense that the Russian phase
19 is over, may I be permitted to ask what are those
20 matters which are reserved, because it is somewhat
21 unclear for me what is over and what is not over.

22 THE PRESIDENT: We have a reserved matter
23 under consideration ourselves. But I would like Major
24 Blakeney to tell us what he has in mind as reserved
25 matters.

1 MR. BLAKENEY: I don't, of course, carry
2 them all in my head, and I can refer to the record
3 only generally.

4 I, myself, have reserved presentation of
5 some certificates, some photographs of maps, and
6 possibly a few other things.

7 I have mentioned once that we were attempting
8 to find evidence on a specific point which, if we
9 found it, we hoped to have leave to introduce later.

10 What, if any, reservations counsel who presented
11 other parts of the Russian phase made I do not know.

12 We, of course, should like to reserve the
13 right, if witnesses should subsequently be brought for
14 cross-examination, to adduce such additional evidence
15 as the results of that cross-examination may indicate
16 the desirability of.

17 That is about as specific as I can be without
18 consulting the record itself.

19 THE PRESIDENT: General Vasiliev.

20 GENERAL VASILIEV: If the defense speak about
21 accomplishing those parts which were not accomplished,
22 that I understand fully. If the certificates and copies
23 of the maps are concerned, that I understand fully. I
24 can also understand the examination of witnesses which
25 were not examined because we know with what matters they

1 are concerned. But as far as some specific point is
2 concerned, I think it must not be kept secret either
3 from the Tribunal or from us, and I think we should
4 know what it is about.

5 I request the Tribunal to rule that defense
6 should clarify this specific point.

7 THE PRESIDENT: Well, I am afraid that I am
8 not in position to speak for the Tribunal on that.
9 It may be that there are different national viewpoints
10 as to the time at which the defense is at liberty to
11 adduce any evidence that is relevant and material.

12 GENERAL VASILIEV: Shall I be satisfied with
13 that?

14 THE PRESIDENT: I don't know. Do you want
15 this Court to announce that it will not receive any
16 further evidence on the Russian phase, except in rebuttal?

17 GENERAL VASILIEV: I am interested only in the
18 statement made by the defense concerning some special
19 point -- specific point.

20 THE PRESIDENT: Major Blakeney told me that
21 he said all he could recollect.

22 GENERAL VASILIEV: I understand that this
23 specific point shouldn't exceed the limits of those
24 matters which were dealt with by the prosecution. Mr.
25 Blakeney didn't say that he forgot what this point is;

1 he remembers this point very well, but he tries to
2 envelope it with some secrecy.

3 THE PRESIDENT: I don't take that view, General.

4 I am reminded that if you wish to find what
5 matters are outstanding, you can do so by perusing the
6 record. But I would expect Major Blakeney to have a
7 readier knowledge than you would have; if he has, we
8 would like the benefit of it.

9 However, he says he has told us all he recollects,
10 and I, for one, do not think he intends to spring any
11 surprise, although I don't accept responsibility for
12 him.

13 GENERAL VASILIEV: I will rely on your judgment,
14 your Honor.

15 THE PRESIDENT: Mr. Roberts.

16 MR. ROBERTS: We now present evidence to
17 explain the origin and true meaning of the phrases
18 "hakko ichiu" and "kodo" and its actual use and inter-
19 pretation in order to refute the characterization placed
20 upon it by the prosecution.

21 We recall the witness INOUE, Takamoro, who
22 was sworn before this Court on March 6, 1947 and whose
23 testimony is now contained in affidavit form in defense
24 document No. 1380. This affidavit makes reference to,
25 and contains excerpts from, a number of books. Some of

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1 these books have already been marked for identifica-
2 tion as indicated in the affidavit. The remaining
3 volumes referred to are available to be marked for
4 identification.

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6 T A K A M O R O I N O U E, having been previously
7 sworn, was recalled as a witness on behalf of
8 the defense, and testified through Japanese inter-
9 preters as follows:

10 M^r. ROBERTS: May the witness be shown
11 defense document No. 1380.

12 THE PRESIDENT: You are still on your former
13 oath, Witness.

14 DIRECT EXAMINATION

15 BY M^r. ROBERTS:

16 Q Will you please examine this document and
17 tell us whether or not it is your sworn affidavit?

18 A This is my affidavit without mistake.

19 M^r. ROBERTS: I offer it in evidence.
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1 THE PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: If it please the Tribunal,
3 when this witness was stood down he was told,
4 page 18,113 of the transcript, to confine his statement
5 in any subsequent affidavit to quotations from
6 dictionaries and histories, and he was admonished not
7 to include an attempt at elucidation.

8 THE PRESIDENT: In his affidavit he says I
9 ordered him to explain the meaning of the term. I did
10 no such thing.

11 MR. TAVENNER: What I have read to the
12 Tribunal I quoted from the record.

13 We have no special objection to the first
14 four paragraphs or the last paragraph, which is No. 7.

15 THE PRESIDENT: A Member of the Tribunal
16 expresses his views this way: "Peace on earth, good
17 will to all men," "universal brotherhood," "brotherhood
18 of man," are commonplaces in our language and no
19 evidence of their meaning would be admissible. They
20 mean whatever the speaker intends them to mean.

21 I don't know that you can make a better case
22 against their admission than that, Mr. Tavenner, but
23 you may try if you wish.

24 MR. TAVENNER: I might only point out that
25 paragraph 5 is a citation of early instances of the

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1 poetic use of the two words "hakko" and "ichi-u" in
2 China between 1662 and 1722; and that paragraph 6 con-
3 sists of explanatory notes found in four books, two
4 of which were published in 1942, one in 1934 and one
5 in 1932, the writers of which would not have been
6 permitted to testify, we submit, on those matters had
7 they been produced in person as witnesses.

8 THE PRESIDENT: We made it clear to this
9 witness before we didn't want his explanation but we
10 would be prepared to look at dictionaries and other
11 standard and authoritative works. Why can't our simple
12 requests be complied with without all this waste of
13 time and material?

14 MR. ROBERTS: May I respectfully submit, this
15 is in direct answer to the question by the Tribunal
16 as to producing books and histories. The quotations
17 in this affidavit are direct quotations from standard
18 histories, dictionaries and books recognized as standard
19 books on the use and origin of the phrases in question.
20 I think the Tribunal will find that the quotations in
21 this affidavit are quotations from standard books and
22 dictionaries as requested by the Tribunal, and that the
23 said volumes and quotations are in court, ready to be
24 marked for identification. In other words, these are
25 definitions and quotations from standard works recognized

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1 up to the present time.

2 And referring back to the record of March 6,
3 page 17,907, at that time it was stated:

4 "Well, do produce this book that he studied
5 at the university showing the meaning of this phrase
6 and shorten the proceedings. You are going to give us
7 everything but the books. Give us the books. We all
8 want them."

9 So that, I respectfully submit, this is in
10 answer to the direct request by the Tribunal on that
11 date.

12 THE PRESIDENT: To the extent that it complies
13 with the Tribunal's direction, it is admitted on the
14 usual terms, and the objection is overruled.

15 CLERK OF THE COURT: Defense document 1380 will
16 receive exhibit No. 2717.

17 (Whereupon, the document above
18 referred to was marked defense exhibit
19 No. 2717 and received in evidence.)

20 MR. ROBERTS: May I point out that an errata
21 sheet has been issued in connection with this document,
22 the first correction being on page 3, fifth line from
23 the bottom. It should be page 419 instead of page 418.
24 On page 6, the 12th line, should insert the word "common"
25 between "the" and "path," reading "the common path."

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1 And the second paragraph on the same page, first line;
2 that is, the second sentence, should read, "They each
3 set up barriers and engage in conflicts," instead of
4 "They respect their boundaries with each other and never
5 engage in conflicts."

6 I now read exhibit 2717, omitting the formal
7 parts.

8 "HAKKO ICHI-U as is used in Japanese is not a
9 single word, but, as explained below, is a sentence
10 compressed into a phrase. There is no comprehensive
11 dictionary of Japanese phrases in Japan to date so the
12 dictionaries commonly in use do not include the phrase
13 as one set phrase, but as two separate words, HAKKO
14 and ICHI-U, in two different places. (This is to be
15 treated in 3.) So far as I know, there is only one
16 dictionary in which the phrase HAKKO ICHI-U is mentioned
17 as such. (In No. 4 I shall make reference to this fact.)

18 "Since the phrase is found in the Imperial
19 Rescript and is therefore a well-known wording, it is
20 frequently explained in explanatory notes on the
21 rescripts or in other similar works. (Quotations from
22 authoritative works are found in 6.)

23 "Instances of dictionaries in which HAKKO and
24 ICHI-U are mentioned separately.

25 "a. Exhibit for Identification No. 2358.

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1 Dai Genkai, Vol. 3, on page 868. By OTSUKI, Fumihiko.
2 Published in 1932.

3 "'HAKKO' is the same as 'HAPPO' (eight
4 directions).

5 "b. Exhibit for Identification No. 2359.
6 Vol. 1, on page 279 of same previously described.
7 Published in 1934.

8 "ICHI-U - One house; one roof.
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1 "4. Instance of dictionary where HAKKO
2 ICHI-U is included as one phrase.

3 "Shin Jiken; on page 244, by Shionoya On.

4 "Published in 1939.

5 "HAKKO ICHI-U - to make the whole world as one
6 family; the great ideal of the foundation of our Em-
7 pire.

8 "The Imperial Rescript recorded in 'Nippon
9 Shoki,' and issued on the occasion of establishment of
10 the new capital at Kashiara, contains the following
11 passage: 'to make one family out of the whole world.'

12 "5. They have in China early instances of
13 HAKKO and ICHI-U, having been used as a couplet. On
14 page 9, Vol. 78 of the Pien-Tzu-Lui Pien (Emperor
15 Kanghsi's Version of the Dictionary of Rimed Phrases),
16 compiled by order of the Emperor Kanghsi (1662-1722)
17 of the Chiang Dynasty, is found a passage quoted from
18 Wu Shihtao's poem, 'Today the World is One Household.
19 Speak not hereafter of there ever being far-off borders.'

20 "The HAKKO is used here as of the same meaning
21 of HAKKO. This is clear from the fact that HAKKO, as
22 mentioned on page 868 of Exhibit for Identification No.
23 2358, means the same as HAPPO.

24 "NOTE BY THE DEPONENT: This is a passage of
25 the poem dedicated to the poet's friend who was leaving

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for a distant post. The meaning is this:

"Now that the people the world over have come to live in complete amity and harmony just like one household, there is nothing whatever for his friend to be afraid of even in the remotest parts of the earth.

"6. Explanatory notes on HAKKO ICHIU that are found in books:

"a. Author: TANAKA, Tomoenosuke, the Complete Edition of Shishi-O's works. 'On National Polity,' published in January 1932. (This treatise was originally published during the Taisho era, in an earlier writing by the same author, which was incorporated into a complete edition.)

"Page 288. 'HAKKO ICHIU, that is, the whole world is one household -- the world is one household and makino are brothers.'

'O universal brotherhood!

Where art thou fled and gone?

Why rage the sea and tempest where

The sun but lately shone?'

"(TN: Translated by SAITO Hidesaburo)

"So wrote the Emperor MEIJI who, I presume, found it deploring to find the actual status of the world so contrary to His Majesty's august wishes -- 'the world be one household.'

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1 "Page 419. 'Japan brings the world under
2 control by means of morality; such a thing as to bring
3 the world under control by force of arms or by robbing
4 other countries has never once been practiced since
5 the days of the Emperor JIMMU. The Emperor, upon his
6 accession to the throne observed HAKKO ICHU and RIKUGO
7 ITTO (to build a capital covering the entire land), by
8 which remarks was meant no aggression but was intended
9 to signify moral influence.'

10 "b. Exhibit for Identification No. 2375.

11 "Author: TAKASU, Yoshijiro

12 "Explanatory notes on Japanese Imperial Re-
13 scripts.

14 "The author, after having quoted in Vol. 7,
15 page 316 (published in 1934) the whole text (Exhibit
16 for Identification 2355; page 95; line 4-9) of the
17 Emperor JIMMU's rescript (662 B.C.) proceeds to say
18 (on page 317, line 1): 'In this rescript there are
19 three major points which no one can fail to notice.'
20 Then in lines 7 and 8 are: 'The third, "HAKKO ICHIU,"
21 means to have the whole country as one household and
22 love the people as dearly as one does his children,
23 spreading thereby KO-DO (the Way of the Emperor) far
24 and wide. This clearly shows that ultimately it will
25 morally evolve into universal humanity which is the

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1 embodiment of the conception that the world is one
2 family.'

3 "It is expected that HAKKO ICHIU from its
4 initial idea of making one household of the whole
5 country, will develop into the ideal of universal
6 humanity which considers the whole world as one family.'

7 "The phrase HAKKO ICHIU was meant to indicate
8 the possible development of the idea into universal
9 humanity based on the recognition of patriotism.
10 Characteristically the Nippon spirit is quite free
11 from bias, as I have mentioned elsewhere; consequently
12 it is impossible for this Japanese trait to become so
13 partial as to forget universal humanity by being en-
14 slaved to patriotism. It is only because of this be-
15 ing so that the Emperor JIMMU spoke of HAKKO ICHIU.'

16 "c. Author: HAKAMURA, Koya.

17 "The Spirit manifested in the founding of the
18 Empire. Published in 1942.

19 "Following the last sentence on page 98, the
20 author cites the whole text (Exhibit for Identification
21 No. 2355, page 95, line 4-9) of the rescript, issued
22 by the Emperor JIMMU on the occasion of establishment
23 of the new capital, and then gives a summary (page 99,
24 line 15 to page 100, line 2) of the latter half of the
25 same rescript, concluding with 'This ideal of the

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1 Emperor, making one family of the whole world, was the
2 very spirit on which the Empire was founded.' Then he
3 proceeds to say:

4 "'(U) means a house, and by house is meant a
5 family. The family is a community composed of man
6 and wife, parent and child, brothers and sisters --
7 a community of blood relatives where all these people,
8 in perfect unity and harmony, loving and not hating,
9 proceed hand in hand along life's journey towards one
10 hopeful goal. It is indeed a gregarious life cemented
11 by love, faith, and by concerted effort. It is be-
12 cause of this that there is peace, safety and happi-
13 ness and that meaning in life comes about. How would
14 it be possible for us to live life if it is full of
15 suspicion, hatred and discord? It is only because our
16 life is cemented by love, faith and concert that it is
17 worth living, gives us the means by which to live, and
18 gives us pride in living. This is truly a high moral
19 life.'

20 "'Effort to popularize this moral life in the
21 world is a manifestation of the ideal HAKKO I - U
22 (making one family out of the whole world) and this is,
23 I believe, the spirit in which the establishment of the
24 Empire was effected.'

25 "On page 103:

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1 "(U) is the word for roof; what is covered by
2 a roof is house; and those that dwell in a house com-
3 pose a family. To make the whole world a house means
4 in other words a desire for cooperative living, where
5 entire humanity loves one another and does not hate,
6 mutually trusts one another and never doubts, getting
7 rid of personal interest, freeing oneself from narrow
8 racial and national bias, becoming united and thus
9 proceeding hand in hand toward the highest human goal
10 of harmony and perfect happiness. When this comes
11 about, the lives of we human beings will become such
12 as to enable us to enjoy boundless and glorious happi-
13 ness. Accordingly, those who have been respected as
14 sages have advocated time and again this conception of
15 life, both grand and elegant. For example, Confucius
16 in Confucianism says, "Their persons being cultivated,
17 their families were regulated. Their families being
18 regulated, their States were rightly governed. Their
19 States being rightly governed, the whole world was
20 made tranquil and happy." This ideal of governing the
21 States rightly, of making the whole world tranquil and
22 happy -- this is the "ame-ga-shita" (TN: under the
23 heavens), the whole world the whole humanity. Sakya,
24 in Buddhism, taught benevolence. He wanted to develop
25 a happy life by having people loving each other. Christ

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1 taught universal love, to enter into a happy life by
2 avoiding hate and by loving one another also.'

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1 "d. Author: SATOMI, Kishio. 'Introduction
2 to the Study of the National Polity.' Published in
3 1942. Pages 169-170.

4 "'To make HAKKO (the whole world) an ICHIU
5 (one house) does not mean that all the peoples of
6 the world become one nation, eat the same kind of
7 food, wear the same kind of clothes, speak the same
8 language, and lead the same mode of living. HAKKO
9 ICHIU means the recognition of each phenomenal entity
10 as it is and their ultimate unification in one funda-
11 mental principle. It does not mean to force others
12 to concede to one's wishes from one's arbitrary sub-
13 jective motives, to unify the world in accordance
14 with one's subjectivity, which is not unification at
15 all, but nothing but a control by force. Some flow-
16 ers are yellow, some are red, while others are white;
17 the flowers must be accepted as 'Seins' (beings) just
18 as they are, and all beings must equally be recog-
19 nized. The Japanese eat with relish nasty smelling
20 nukamiso pickles which no Occidentals can ever bear;
21 strange as it is, it is an undeniable instance of
22 racial custom. The custom of women taking precedence
23 over men, which in the eyes of the Japanese looks
24 rather queer, is an actual phenomenon in the Western
25 countries (page 170). Find fault with these customs

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1 as you may, you cannot expect to do away with them at
2 your will. It is no good picking holes in one
3 another's coats to suit your own taste. They are
4 racial entities which should be recognized and accepted
5 just as they are. Whether they be takuan (TN: Japan-
6 ese pickle) eaters, butter likers, or oil drinkers,
7 so long as they are human beings they must walk the
8 path of morality. That is the ideal of HAKKO ICHIU,
9 the principle of the foundation of Japan.

10 "In towns there are lords, in villages head-
11 men. They each set up barriers and engage in con-
12 flicts.' (Note by the Deponent: Exhibit for Identifi-
13 cation No. 2355, page 80, last line.)

14 "To establish a world order where people
15 do not fight or quarrel, but respect and help each
16 other; that is HAKKO ICHIU.'

17 Page 174.

18 "To put it in a nutshell, it is to rid the
19 world of wars of aggression and imperialism and set
20 up an order of peace equally to all based on the law
21 of righteousness.'

22 "7. As is seen from the quotation above, and
23 also as I deposed March 6, HAKKO ICHIU owes its origin
24 to the rescript issued (in 662 B.C.) by the Emperor
25 KIMMU, the first Emperor of Japan on the occasion of

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1 establishment of the new capital.

2 "The rescript was not written, but was handed
3 down by word of mouth, and it was not until the Nippon
4 Shoki was compiled that the rescript was written down
5 in black and white and incorporated into the work.

6 "The Nippon Shoki was compiled by Imperial
7 order, and is the first authentic chronicle. It was
8 completed in the year 720 A.D. (Exhibit for Identifi-
9 cation 2355, page 1, Vol. 1 of the Nippon Shoki, one
10 of the Six Japanese Histories) and in it were com-
11 piled all that had been handed down by tradition ver-
12 bally in all circles of society and what materials
13 there were that remained in fragmentary notes (pages
14 13-15 as above). The purport and cause of the compi-
15 lation are mentioned on pages 7-12.

16 "The text of the Rescript occupies lines
17 4-9 on page 95 of the Nippon Shoki, where is found
18 the passage: (to make one family out of the whole
19 world). The large letters in the lower line are
20 written in Chinese style and the attached small print
21 in the upper line are in Japanese phonetics. This small
22 print is the Japanese version, in other words the one
23 that reads:

24 "(to make one family out of the whole world.)"

25 "From the above passage are extracted the

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1 four characters (Hachi or eight), (Ko or directions,) 1
2 (I or make), (U or house), which form a phrase 2
3 (HAKKO I-U, to make one family out of the whole world), 3
4 next the verb (I or make) is replaced by the numeral 4
5 (Ichi or one) and thus is formed the phrase in ques- 5
6 tion (HAKKO ICHI-U)."

7 May the witness be shown defense document 7
8 No. 1379? 8

9 (Whereupon, a document was handed 9
10 to the witness.) 10

11 BY MR. ROBERTS (Continued): 11

12 Q Will you please examine this document and 12
13 tell us whether or not it is your sworn affidavit. 13

14 A This is my affidavit. 14

15 MR. ROBERTS: I offer it in evidence. 15

16 THE PRESIDENT: Mr. Tavenner. 16

17 MR. TAVENNER: If the Tribunal please, para- 17
18 graph one of this affidavit appears to comply with 18
19 the direction of the Tribunal, but the remainder of 19
20 the affidavit, it is submitted, does not and should 20
21 be rejected. I meant to say paragraph two instead 21
22 of paragraph one. 22

23 Paragraph four and five consist of a summa- 23
24 rized statement by the witness of the so-called sub- 24
25 stance of Kodo in which he cites various authorities 25

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to sustain his assertions, conclusions and opinions.


1 Paragraph six is the witness' explanation of
2 kodo in relation to foreign ideology.

3 Paragraph seven is a statement by the wit-
4 ness of what he terms the vicissitudes of kodo in
5 history and is interspersed with opinions and attempts
6 at elucidation.

7 Objection is made to the entire affidavit
8 with the exception of paragraph two.

9 THE PRESIDENT: We will recess for fifteen
10 minutes.

11 (Whereupon, at 1445, a recess was
12 taken until 1500, after which the proceed-
13 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Roberts.

4 MR. ROBERTS: With respect to the objection
5 made by the prosecutor, I wish to point out that in
6 paragraph 4 the witness states that he is summarizing
7 the substance of "Kodo" in accordance with writings
8 which he refers to in the appendage. There are twenty
9 references to authorities so that the affidavit again
10 is practically quotations from the authorities men-
11 tioned in the appendage. Some of it, perhaps, is
12 summarized to save the time of the Court and not to
13 make the affidavit too long.

14 THE PRESIDENT: When this matter came up
15 before we pointed out frequently that it was not the
16 dictionary term, if we could discover it, that mattered
17 so much as the meaning given to the expression by the
18 particular accused who is alleged to have used it.
19 Of course, it would be helpful to look at the diction-
20 aries. All we wanted was dictionaries.

21 MR. ROBERTS: This is a compilation of
22 dictionaries and historical books from which the
23 expression will be shown to have originated and its
24 use and interpretation. These definitions will lay
25 the foundation for the introduction of later documents

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1 where this phrase is used by certain of the accused
2 to give the Court a clear picture of its intention
3 in the manner that it is used.

4 THE PRESIDENT: The second paragraph should
5 be sufficient for our purposes. That is not objected
6 to.

7 MR. ROBERTS: If your Honor please, I
8 submit that paragraph 4, which is quotations from
9 the writings, paragraph 6 I admit is perhaps a summary
10 that may be omitted, but paragraph 7 will be seen on
11 page 6 to refer to notes on at least four different
12 occasions which refers back to the documents which
13 are mentioned at the end of the affidavit. In other
14 words, paragraph 6 may be his own words but paragraph
15 7 is quotations from the authorities mentioned in
16 that paragraph.

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18 THE PRESIDENT: By a majority the Court
19 upholds the objection. That means you may read
20 paragraph 2 which is admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 1379
22 will receive exhibit No. 2718.

23 (Whereupon, the document above
24 referred to was marked defense exhibit No. 2718
25 and received in evidence.)

MR. ROBERTS: I read exhibit 2718, omitting

1 the formal parts:

2 "I first enumerate the explanations of
3 the word 'Kodo' in existing dictionaries.

4 "(a) 'Jigen' (Origin of Ideographs), compiled
5 by KANNO, Domei; 1925 edition, on page 1304, explains
6 'Kodo' as 'the way established on the basis of the
7 national constitution.'

8 "(b) 'Shin Tei Shokai Kanwa Dai Jiten'
9 (Sino-Japanese Dictionary with minute explanations
10 and newly revised), compiled by HATTORI, Unokichi
11 and KOYANAGI, Shigeta; 1937 edition; on page 1305,
12 gives the explanation: 'Kodo is the way that arose
13 on the foundation of the national constitution.'

14 "(c) 'Dai Genkai' (The Great Sea of Words),
15 compiled by OTSUKI, Fumihiko; 1935 edition; on page
16 484, gives the explanation of the word 'Do,' or
17 'Michi' as 'principles of things on which one should
18 conduct oneself.'"

19 We have in court at the present time the
20 volumes referred to herein which, if the Court so
21 desires, may be marked for identification.

22 THE PRESIDENT: Mr. Tavenner.

23 MR. TAVENNER: I object to the marking of
24 these books for identification inasmuch as references
25 to them were excluded in the Court's ruling.

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1 THE PRESIDENT: There is a way of having
2 them noted in the record without having them marked
3 for identification. That was indicated in Chambers
4 and was acceptable to the parties.

5 MR. ROBERTS: We are satisfied to let
6 it rest on the record.

7 Do you desire to cross-examine?

8 MR. TAVENNER: If the Tribunal please, I do
9 not desire to cross-examine the witness but I would
10 like to call the Tribunal's attention to the prosecu-
11 tion's evidence relating to the terms "Hakko Ichiu"
12 and "Kodo." I refer to the use of that term in the
13 Cabinet decision of 26 July 1940, exhibit 541,
14 transcript 6272; an excerpt from interrogation of
15 the accused TOJO, exhibit 1157-C, transcript 10,305;
16 address of Foreign Minister MATSUOKA, exhibit 261,
17 transcript pages 3491, 3493 and 3500; an excerpt from
18 the book by HASHIMOTO, Kingoro entitled, "The
19 Inevitability of Renovation," exhibit 264, transcript
20 pages 3534-3536; the testimony of Henry Pu-Yi, tran-
21 script page 4004; a summary of the program for economic
22 construction embracing Japan, Manchukuo and China,
23 exhibit 462-A, transcript page 5278; and an excerpt
24 from the book by the accused SHIRATORI entitled, "The
25 Three-Power Pact and the World of Tomorrow," at page

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1 6409 of the transcript.

2 MR. ROBERTS: I desire to have a document
3 identified by this witness and ask him to be shown
4 defense document No. 142.

5 THE PRESIDENT: I thought you had finished
6 with him. This is not re-examination. There cannot
7 be any; there was no cross-examination.

8 MR. TAVENNER: If the Tribunal please--

9 MR. ROBERTS: I simply show the document
10 for identification and that is all. I am not
11 using the witness on the document or attempting to
12 examine him further.

13 THE PRESIDENT: What are they? Documents
14 on "Hakko Ichiu" and "Kodo"?

15 MR. ROBERTS: It is an excerpt from "Nihon
16 Shoki," which is exhibit for identification No. 2355.

17 MR. TAVENNER: That is the point I want to
18 make. It is already identified and has received an
19 exhibit number for identification.

20 THE PRESIDENT: I am sure none of my
21 colleagues wants any more help about this.

22 MR. ROBERTS: This is the excerpt from the
23 book which is marked for identification and which re-
24 fers to the original use of the phrase by the Emperor
25 JIMMU.

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1 THE PRESIDENT: We will not permit any
2 further questioning of this witness. He is released
3 on the usual terms.

4 (Whereupon, the witness was excused.)

5 MR. ROBERTS: I offer in evidence defense
6 document No. 142 which is an Imperial Rescript dated
7 7 March 662 B.C., being an excerpt from exhibit 2355
8 for identification, for the purpose of showing the use
9 of this phrase by Emperor JIMU in 662 B.C.

10 THE PRESIDENT: Mr. Tavenner.

11 MR. TAVENNER: If your Honor please, objection
12 is made to the introduction of this document on the
13 ground that the use of this term in 662 B.C. could
14 have no bearing on the issues in this case.

15 MR. ROBERTS: This is the first and original
16 use of the phrase and I think it would clarify the
17 picture for the Tribunal as to how it originated and
18 who first used it.

19 THE PRESIDENT: We have known of this many
20 months and it so appears in the record. The objection
21 is upheld and the document is rejected.
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1 MR. ROBERTS: I desire to call the Tribunal's
2 attention to exhibit 2365, being former defense docu-
3 ment No. 292. I desire to refer only to the sentence
4 beginning with the eighth line to show the interpreta-
5 tion of the phrase by the Minister of State, HIRANUMA,
6 on 14 January 1939. The sentence reads as follows:

7 THE PRESIDENT: You are reading from an ex-
8 hibit ?

9 MR. ROBERTS: There is one sentence to which
10 I desire to call the Tribunal's attention from the
11 exhibit. (Reading):

12 "The soul of the doctrine of the Imperial
13 Way in our country is, I believe, to enable all
14 people to find their own places and not leave anyone
15 without his own place."

16 I desire also to call the Tribunal's atten-
17 tion to exhibit 554, formerly prosecution document
18 2600-A, being an Imperial Rescript, dated 27 December
19 1940, for the purpose of showing the application of
20 the "Hakko Ichiu" doctrine in attaining the objectives
21 mentioned therein.

22 THE PRESIDENT: You are giving evidence
23 twice. We do not want that. The whole of that is
24 already in evidence.

25 MR. ROBERTS: The foundation that was laid

1 previously as to the definition and origin of the
2 phrase was for the purpose of showing its meaning
3 as applied to the instruments already introduced
4 in some cases, and in the cases that I refer to
5 to clarify the true and the real meaning of the
6 phrase.

7 We offer in evidence defense document No.
8 207, which is an official interpretation of the use
9 of the phrase "Hakko Ichiu" by State Minister
10 HASHIDA as recorded at a meeting of the 5th Budget
11 Meeting of the House of Representatives on 26 January
12 1941.

13 THE PRESIDENT: Is there no objection to
14 that?

15 Admitted on the usual terms.

16 CLERK OF THE COURT: Defense document 207
17 will receive exhibit No. 2719.

18 (Whereupon, the document above
19 referred to was marked defense exhibit
20 No. 2719 and received in evidence.)

21 MR. ROBERTS: I shall read exhibit 2719,
22 beginning on page 2 at the bottom of the page, the
23 answer of State Minister HASHIDA:

24 "I will answer your question.

25 "I admit the truth of your statement that

1 such matters as the fundamental principle of our
2 national policy or 'making the whole world one
3 family' should not end in empty words.

4 "I believe that education must be reformed
5 so as to practice 'making the whole world one family'
6 and the fundamental principle of the national policy
7 the realization of these principles. I should think
8 that the fundamental idea of including and guiding the
9 Oriental peoples cannot be found in any other way
10 than that. I believe it goes without saying that no
11 one can lead the peoples whose phases of culture
12 appear similar, but are, in fact, different, unless
13 he is able to realize and practice the fundamental
14 idea of 'making the whole world one family.' How to
15 make the practice of it lies only in fostering
16 righteousness within oneself that is shown also on
17 the same occasion in the Imperial Rescript at the
18 Empire foundation. It is not necessary for me to
19 explain the fact that mere talking of 'making the
20 whole world as one family' is of no practical avail
21 if one does not cultivate righteousness within him-
22 self.

23 "The reform of education is to enable one
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1 to practice righteousness which one fosters within
2 oneself in the various spheres of activity. I be-
3 lieve that, if one can practice this, the spirit
4 of 'making the whole world as one family' can be
5 fulfilled in various fields. I am promoting educa-
6 tional reforms and development of science toward
7 the fundamental principles of making one grasp in
8 practice what the knowledge given in education has
9 often left isolated from life."

10 MR. TAVENNER: If the Tribunal please, I
11 would like to call the Tribunal's attention to the
12 paragraph immediately before the place where counsel
13 began to read. I do not propose to ask to read it
14 but merely to call it to the Tribunal's attention.

15 MR. ROBERTS: We now offer in evidence
16 defense document No. 303, which is an official inter-
17 pretation of the phrase "Hakko Ichiu" by Prime Minister
18 KONOYE as reported in the proceedings of the House of
19 Representatives at the 76th Session of the Imperial
20 Diet on 18 February 1941.

21 THE PRESIDENT: Is this becoming repetitive?

22 MR. ROBERTS: This is the last statement on
23 this, and it being an official statement I believe it
24 is also important, particularly in view of the docu-
25 ments which were just called to the attention of the

Tribunal by the prosecutor.

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Defense document 303
3 will receive exhibit No. 2720.

4 (Whereupon, the document above
5 referred to was marked defense exhibit
6 No. 2720 and received in evidence.)

7 MR. ROBERTS: I read exhibit 2720, omitting
8 the formal parts:

9 "Prime Minister Prince KONOE, soon after
10 his formation of the Cabinet last July, in accordance
11 with the Imperial Command, announced his basic national
12 policies. At the outset he stated roughly as follows:
13 'The guiding national policy of our country is to
14 bring about world peace based on the spirit of our
15 National Inauguration, namely, of 'making the world
16 one home' (T. N. Translation of the Japanese phrase
17 'Hakko Wo Ichiu To Suru' according to the popular
18 version). This means to say that 'Hakko Ichiu' is
19 our guiding national policy.'

20
21 "Again at the 2nd sub-Committee meeting of
22 the Budget Committee of the House of Representatives
23 held on January 31, 1941, Education Minister HASHIDA
24 made his reply to the interpellation of MORITA,
25 Jujiro about the meaning of the phrase 'Hakko Ichiu.'

1 In it, he stated his version of the great spirit
2 of our National Inauguration. It seems to us that
3 it was really a very important utterance. We,
4 thereupon, make the following two questions.
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1 "1. What version does Prime Minister
2 KONOYE entertain of the phrase 'Hakko Ichiu'?

3 "2. Is the phrase 'Hakko Ichiu' similar
4 in meaning to the phrase 'Amenoshita o oite iye to
5 semu'? (T.N. 'I will make a house of the firm-
6 ament.')

7 "We respectfully inquire on the above
8 points."

9 I will skip to the reply.

10 "Reply to the interpellation of IKUTA
11 Kazuhira and one other re the words 'Hakko Ichiu'.

12 "1. The phrase 'Hakko Ichiu' originated
13 in the following passage which we find in the rescript
14 of Emperor JIMMU on the occasion of the inauguration
15 of his seat of government. 'I will respond to the
16 Virtue of the Sun Goddess high in Heaven who bestowed
17 on us this land and will propagate the Spirit of
18 Her Grandson (TN Ninigino-Mikoto) who cultivated
19 Righteousness. Then isn't it good to open up a
20 capital on the basis of the entire land and build
21 up a house or houses (TN nothing is mentioned which
22 denotes that it must be considered singular) under
23 heaven?

24 "This, it seems to me, is to respond to the
25 Virtue of the Sun Goddess who bestowed on us all

things and nourished them and leads them to propagate
1 the Spirit of Her Grandson (T.N. Ninigino-Mikoto)
2 who cherished Righteousness and, thus, by the Grandson
3 of the Virtue of the Sun-Goddess to make the firm-
4 ament one affinital body like one home. For this
5 reason by the phrase 'Hakko Ichiu', we understand
6 the manifestation of the Imperial will of enabling
7 various nations including our own to secure their
8 due places and develop their respective specific
9 traits.

10 "2. I consider the phrase 'Hakko Ichiu'
11 to be of the same meaning as the phrase 'Hakko o
12 oite Iye to sen.' (T.N. 'To make a house of the
13 firmament')

14 "The above is our reply."
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1 At this time, if the Tribunal please, we
2 tender in evidence the deposition of KAGESA, Sadaaki,
3 set forth in a report by the Honorable Mr. Justice
4 Northcroft as Commissioner, dated 5 June 1947.

5 THE PRESIDENT: The evidence is admitted
6 on the usual terms. The covering report will be
7 recorded and filed.

8 CLERK OF THE COURT: Report of The Honorable
9 Mr. Justice Northcroft, Commissioner appointed to
10 take evidence of witness KAGESA, Sadaaki, will re-
11 ceive exhibit 2721.

12 (Whereupon, the document above referred
13 to was marked defense exhibit 2721 and received
14 in evidence.)

15 MR. ROBERTS: Shall I proceed to read the
16 report?

17 THE PRESIDENT: We have no copies. I have
18 not seen a copy, but it may be in my office.

19 MR. ROBERTS: I understood they were all
20 distributed to Judges, Clerk, and prosecution.

21 THE PRESIDENT: Well, proceed to read it.

22 CLERK OF THE COURT (reading): "REPORT OF THE
23 HONOURABLE MR. JUSTICE NORTHCROFT (MEMBER FOR NEW
24 ZEALAND), COMMISSIONER APPOINTED TO TAKE EVIDENCE OF
25 WITNESS KAGESA, SADAANKI.

"WHEREAS, on the 21st day of May 1947 the
1 Tribunal ordered that the evidence of KAGESA, Sadaaki,
2 a witness whose testimony was sought by Counsel for
3 the defendants in this trial and who on account of ill-
4 ness was unable to attend before the Tribunal, should
5 be taken upon commission before me; AND WHEREAS on
6 Thursday and Friday, the 22nd and 23rd days of May
7 1947 the witness KAGESA, Sadaaki, appeared before me
8 at the First National Hospital in the City of Tokyo
9 and (I being satisfied that the witness was in posses-
10 sion of his mental faculties and fit to give evidence)
11 his evidence was duly heard and taken; AND WHEREAS
12 Messrs. Roberts, Samuel A.; Lazarus, Aristedes; YAMADA,
13 Hanzo; Kanzaki, Masayuski; OKAMOTO, Toshio;" -- and
14 at this point I have been asked to substitute the
15 name of SASAGAWA Tomoji for the name appearing in the
16 report of HASEGAWA, Nutokichi -- "of Counsel for the
17 Defence; and Judge Hsiang Cho-Chun; Judge Nyi, J. T.;
18 Mr. Sutton, David N.; and Mr. Laverge, A. T., of
19 Counsel for the Prosecution, were present at the hear-
20 ing; and the witness was examined, cross-examined, and
21 re-examined by Counsel on behalf of the Defence and
22 the Prosecution; AND WHEREAS Court Reporters, Inter-
23 preters, and a Language Arbiter were present through-
24 out the hearing; AND WHEREAS all the proceedings at
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1 the hearing were duly translated into English and
2 Japanese;

3 "NOW THEREFORE I, E. H. NORTHCROFT, Member
4 of the International Military Tribunal for the Far
5 East, HEREBY REPORT to the Tribunal that the evidence
6 of the witness KAGESA, Sadaaki has been duly taken on
7 commission before me in accordance with the order of
8 the Tribunal of 21st May, 1947, AND I HEREBY CERTIFY
9 that the transcript of proceedings attached hereto,
10 comprising 178 pages numbered successively 1 to 178,
11 signed by me, is a true, correct, and complete record
12 of the proceedings of the Commission; that the docu-
13 ment also attached hereto and marked with the letter
14 'A' is the affidavit of the said witness tendered as
15 an exhibit in the course of the said proceedings;
16 that the documents further attached hereto and marked
17 successively with the letters 'B', 'C', 'D', 'E',
18 'F', 'G', and 'H' are further exhibits tendered and
19 received in evidence in the course of the said proceed-
20 ings; and that the documents further attached hereto
21 and marked successively with the letters 'I', 'J',
22 'K', and 'L' are documents tendered and marked for
23 identification in the course of the said proceedings.

24 "Dated at Tokyo, Japan, this 5th day of June,
25 1947.

"Signed: E. H. NORTHCROFT."

1 THE PRESIDENT: We have two important
2 matters to decide, so we will adjourn now until
3 half-past nine tomorrow morning.

4 (Whereupon, at 1540, an adjournment was
5 taken until Wednesday, 11 June 1947, at 0930.)
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